

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

TERENCE K. NOYES

v.

DECISIONONE CORP., et al.

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CIVIL ACTION

No. 02-CV-7249

O'Neill, J.

April , 2003

**MEMORANDUM**

Before me is defendants' motion for summary judgment. I will grant the motion in-part and deny the motion in-part.

On August 19, 2002, plaintiff Terence Noyes filed a complaint in the Court of Common Pleas of Montgomery County against defendants DecisionOne Corporation, Robert Schultz, George W. DeSola, and Dwight J. Wilson. Plaintiff, a former employee of DecisionOne, asserted inter alia that defendants breached a contract by denying separation pay benefits under the company's severance plan after his position was eliminated at DecisionOne. Under DecisionOne's formal severance plan, employees received on-going separation payments over plaintiff's normal pay cycle for a certain amount of time after termination. Additionally, the plan established a formal appeal process through which former employees could contest a denial of benefits.

Defendants removed to this Court, asserting that plaintiff's state law claims were completely preempted by the Civil Enforcement provision of the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1132 ("ERISA"). See Metropolitan Life Ins. Co. v. Taylor, 481

U.S. 58 (1987). Plaintiff moved to remand to the Court of Common Pleas. I denied the motion for remand, concluding that the receipt of benefits from severance plan involved the subjective discretion of the plan administrator and therefore was completely preempted by ERISA. See Pane v. RCA Corp., 868 F.2d 631 (3d Cir. 1989); Darlin v. Consolidated Rail Corp., 93 F. Supp. 2d 599 (E.D. Pa. 2000).

Thereafter, plaintiff amended the complaint by dropping his claim to benefits under the formal severance plan and substituting a claim for benefits under a separate contract for enhanced severance benefits that was offered in a letter agreement to “small group of key employees at DecisionOne” to ensure that they were “fully focused on the critical task at hand – restoring DecisionOne’s revenue and earnings growth.” This enhanced severance benefits contract includes language that requires that the Board of Directors of DecisionOne determine that plaintiff was not discharged for “cause” in order to receive the enhanced benefits upon involuntary termination.

Presently, defendants move for summary judgment for lack of subject matter jurisdiction, contending that the amended complaint no longer states an ERISA claim. In addition, defendants argue that I should not exercise supplemental jurisdiction of defendants state law claims and that such state law claims should be dismissed. Plaintiff asserts that his state law claims should be remanded to the Court of Common Pleas.

Federal Rule of Civil Procedure 56(c) provides that summary judgment is appropriate if “the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” I must determine whether any genuine issue of

material fact exists. An issue is “material” only if the dispute over facts “might affect the outcome of the suit under the governing law.” Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986).

I retain subject matter jurisdiction because plaintiff’s amended complaint states an ERISA claim. Plaintiff’s claim for enhanced severance benefits under the letter agreement is still subject to administrative discretion to determine whether plaintiff was terminated for “cause.” See Darlin, 93 F. Supp. 2d at 601 (“Here, much akin to Pane, plan eligibility is restricted to employees who ‘are terminated . . . without cause’ – a standard involving the use of subjective discretion by the plan administrator.”). An agreement requiring such an administrative determination constitutes an ERISA employee benefits plan. See Pane, 868 F.2d at 635.

To the extent that the amended complaint contains state law claims arising out of the administration of the ERISA plan, these claims are completely preempted by ERISA. Therefore, summary judgment is granted to defendants as to the state law claims. Id.

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**ORDER**

AND NOW, this      day of April 2003, after considering defendants' motion for summary judgement for lack of subject matter jurisdiction, plaintiff's response, and defendants' reply thereto, the motion is GRANTED as to all state law claims. However, the motion is DENIED as to plaintiff's remaining ERISA claim.

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THOMAS N. O'NEILL, JR., J.